

Remarks

Applicant gratefully acknowledges the indication by the Examiner that claims 14-17 would be allowable if rewritten in independent form. However, for the reasons outlined below, Applicant respectfully submits that all of the pending claims, i.e., claims 1-17, should be allowable.

Claims 1-17 are pending in the application. Claims 1, 2, and 5-16 are currently amended. Claims 1, 5, 7, 8, and 10 are independent.

Notwithstanding any claim amendments of the present Amendment or those Amendments that may be made later during prosecution, Applicant's intent is to encompass equivalents of all claim elements. Reconsideration in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1, 2, 6, and 10 are objected to for informalities.

Claims 1-4 are rejected under 35 U.S.C. §112, second paragraph.

Claims 1-3, 5, and 7-12 are rejected under 35 U.S.C. §103(a) as unpatentable over US Patent No. 6,434,169 to Verreault in view of US Patent No. 6,667,986 to Sullivan et al. (hereinafter, Sullivan). Claims 4 and 14 are rejected under 35 U.S.C. §103(a) as unpatentable over Verreault in view of Sullivan, as applied to claims 1-3 above, and further in view of US Patent No. 6,347,075 to Barzegar et al. (hereinafter, Barzegar). Claim 6 is rejected under 35 U.S.C. §103(a) as unpatentable over Verreault in view of Sullivan, as applied to claim 5 above, and further in view of Beighe et al. (hereinafter, Beighe).

These rejections are respectfully traversed in view of the following discussion.

The 35 U.S.C. §112, Second Paragraph, Rejection

Claims 1-4 are rejected under 35 U.S.C. §112, second paragraph, because the Office Action asserts that "A system for transmitting modem across a packet network" is vague and indefinite.

Applicant respectfully submits that line 1 of claim 1 is amended above to recite: "A system for transmitting data between a first modem and a second modem across a packet network." Applicant also respectfully submits that line 1 of claim 1 as amended above, fulfills the requirement of 35 U.S.C. §112, second paragraph, by particularly pointing out and distinctly claiming the subject matter which Applicant regards as the invention.

Applicant further respectfully submits that line 14 of claim 1 is amended above to recite "said first ~~end~~ side," for which there is proper antecedent basis.

The Prior Art Rejections

Claims 1-3, 5, and 7-12 are rejected under 35 U.S.C. §103(a) as unpatentable over Verreault in view of Sullivan. Applicant respectfully traverses this rejection.

In regard to independent claim 1, the Office Action cites Verreault for disclosing: a system for transmitting modem signals across a communication network, as shown in Fig. 4; the system comprising first and second processors for connecting a first modem and first side of the network, and a second modem and second side of the network, as shown by the V.32BIS State Machine of Fig. 5, the DSP CALL of Fig. 6, and the TM320C551 DSP of col. 5, lines 29-30 for: providing a local interface to the first and second modems, as shown by the block of linear input buffers, as shown in Fig. 5; demodulating the full duplex stream from the first and second modems into bits, as shown by the full duplex exchange and demodulation of col. 17, lines 44-52; packetizing the bits for transport over a network, as shown by the block packetizer of Fig. 5; and remodulating the data stream from a remote end, as shown by the block modulator of Fig. 5 and col. 6, lines 54-55, in which when a data packet is received by the far-side modem relay unit, then the data packet is modulated (re-modulated) and sent to a local modem that is connected to the first data device.

In regard to independent claim 1, the Office Action cites Sullivan for disclosing a packet network (Figs. 1 and 5).

Nowhere does Verreault and Sullivan, either individually or in combination, teach or

suggest the features of “wherein said packets include redundant data upon the network packet loss,” as recited in claim 1.

In regard to independent claims 5, 7, and 8, the Office Action cites Verreault, in part, for disclosing that while the modem relay unit is waiting for data from the originating modem terminating equipment, the destination modem relay unit maintains communication with the destination modem terminating equipment to prevent protocol timeouts of the destination modem terminating equipment, as shown in col. 2, line 63- to col. 3, line 3 and by the sanity timeout verifications shown in col. 10, lines 1-9.

In particular, Verreault discloses that the V32ModemRelay performs the state sanity check and calls the Finite State Automaton (FSA) and if the state sanity timer expires, a transition to the switch to voice state is requested.

In regard to independent claims 5, 7, and 8, the Office Action cites Sullivan for disclosing a digital network (Figs. 1 and 5).

However, in the present invention, when the modem is not transmitting data, no packets are sent on the IP network (Specification, page 4, lines 7 and 8). Further, once a modem call is established, the only call control message that is expected is a termination event (Specification, page 9, lines 20 and 21).

In contrast to Verreault, the present invention does not switch over to a voice state at expiration of a sanity timer. In fact, the present invention contemplates frequent periods when no packets are sent on the IP network. Hence, the present invention must maintain communication (during such uncommunicative periods) with the destination modem terminating equipment to prevent protocol timeouts of the destination modem terminating equipment, as recited in claims 5, 7, and 8.

Nowhere does Verreault and Sullivan, either individually or in combination, teach or suggest “maintaining communication with the destination modem terminating equipment to prevent protocol timeouts of the destination modem terminating equipment,” as recited in claims 5, 7, and 8.

In regard to independent claim 10, the Office Action urges that claim 10 is the corresponding method claim of claim 1 and claim 10 is rejected for the same reasons as claim 1.

For the same reasons as stated above with respect to the rejection of claim 1, nowhere does Verreault and Sullivan, either individually or in combination, teach or suggest the features of "wherein said packets include redundant data upon the network packet loss," as recited in claim 10.

For at least the reasons outlined above, Applicant respectfully submits that Verreault and Sullivan, either individually or in combination, do not teach or suggest every feature recited in claims 1, 5, 7, 8, and 10. Accordingly, Verreault and Sullivan, either individually or in combination, fail to render obvious the subject matter of claims 1, 5, 7, 8, and 10 and claims 2, 3, 9, and 11-17, which depend from claims 1, 5, 7, and 10 under 35 U.S.C. §103(a). Withdrawal of the rejection of claims 1-3, 5, and 7-12 as unpatentable over Verreault in view of Sullivan is respectfully solicited.

Claims 4 and 14 are rejected under 35 U.S.C. §103(a) as unpatentable over Verreault in view of Sullivan, as applied to claims 1-3 above, and further in view of Barzegar.

The Office Action cites Barzegar for disclosing a means for establishing optimal modulation and rate parameters.

However, nowhere does Barzegar teach or suggest the features of "wherein said packets include redundant data upon the network packet loss," as recited in claims 1 and 10.

Therefore, for at least the reasons argued above, Applicant respectfully submits that Verreault, Sullivan and Barzegar, either individually or in combination, do not teach or suggest every feature recited in claims 1 and 10. Accordingly, Verreault, Sullivan and Barzegar, either individually or in combination, fail to render obvious the subject matter of claims 1 and 10 and claims 4 and 14, which depend from claims 1 and 10 under 35 U.S.C. §103(a). Withdrawal of the rejection of claims 4 and 14 as unpatentable over Verreault in view of Sullivan and further in view of Barzegar is respectfully solicited.

Claim 6 is rejected under 35 U.S.C. §103(a) as unpatentable over Verreault in view of

Sullivan, as applied to claim 5 above, and further in view of Beighe.

The Office Action cites Beighe for disclosing a modem network driver (Fig. 3, block 70).

However, nowhere does Beighe teach or suggest “maintaining communication with the destination modem terminating equipment to prevent protocol timeouts of the destination modem terminating equipment,” as recited in claim 5.

Therefore, for at least the reasons argued above, Applicant respectfully submits that Verreault, Sullivan and Beighe, either individually or in combination, do not teach or suggest every feature recited in claim 5. Accordingly, Verreault, Sullivan and Beighe, either individually or in combination, fail to render obvious the subject matter of claim 5 and claim 6, which depends from claim 5 under 35 U.S.C. §103(a). Withdrawal of the rejection of claim 6 as unpatentable over Verreault in view of Sullivan and further in view of Beighe is respectfully solicited.

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Conclusion

In view of the foregoing, Applicant respectfully submits that claims 1-17, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above-identified Application to issue at the earliest possible time.

Should the Examiner find the above-identified Application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes that may be deemed advisable in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiencies to Client's Deposit Account No. 20-0668.

Respectfully submitted,

Date: 7/19/04

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: the Commissioner for Patents, United States Patent and Trademark Office, PO Box 1450, Alexandria, Virginia 22313-1450 on July 19, 2004.

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